

UNITED STATES BANKRUPTCY COURT
DISTRICT OF NEW JERSEY
Caption in Compliance with D.N.J. LBR 9004-1(b)

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In Re:	Chapter 11
LTL MANAGEMENT, LLC,¹	Case No.: 23-12825 (MBK)
Debtor.	Honorable Michael B. Kaplan

**APPLICATION IN SUPPORT OF THE MOTION TO SEAL THE REDACTED
PORTIONS OF THE OFFICIAL COMMITTEE OF TALC CLAIMANTS' PROPOSED
FINDINGS OF FACTS AND CONCLUSIONS OF LAW, APPENDIX, AND EXHIBITS
THERETO IN SUPPORT OF THEIR MOTION TO DISMISS THE SECOND
BANKRUPTCY PETITION OF LTL MANAGEMENT LLC**

The Official Committee of Talc Claimants (the “TCC” or the “Committee”) in the above-captioned case of LTL Management, LLC (the “Debtor” or “LTL”; “LTL 2.0”), respectfully submits, by and through its counsel, this application in support of the Committee’s motion pursuant to 11 U.S.C. § 107(b), Fed. R. Bankr. P. 9018 and D.N.J. LBR 9018-1 (the “Motion to Seal”) for entry of an order, substantially in the form submitted herewith, (A) for authority to file under seal the redacted portions of *The Official Committee of Talc Claimants’ Proposed Findings of Facts and Conclusions of Law in Support of Their Motion to Dismiss the Second Bankruptcy Petition of LTL Management LLC* (the “TCC’s Proposed FoFs/CoLs”), the appendix and exhibits attached thereto, filed substantially contemporaneously herewith,² and (B) granting the Committee such other and further relief as the Court deems necessary, appropriate and consistent with the goals of the Motion to Seal. In support of this this Motion to Seal, the Committee respectfully states as

¹ The last four digits of the Debtor’s taxpayer identification number are 6622. The Debtor’s address is 501 George Street, New Brunswick, New Jersey 08933.

² A redacted version of the TCC’s Proposed FoFs/CoLs has been filed immediately prior to the filing of this Motion to Seal. An unredacted version of the TCC’s Proposed FoFs/CoLs, appendix, and exhibits are being filed immediately after the filing of this Motion to Seal in accordance with this Court’s procedures for electronically requesting that a document be sealed (*see Process to Electronically Request that a Document be Sealed | United States Bankruptcy Court - District of New Jersey (uscourts.gov)*).

follows:

PRELIMINARY STATEMENT

1. The redacted portions of the TCC's Proposed FoFs/CoLs include certain information designated by the Debtor as being confidential (collectively, the "**Purported Confidential Information**") in accordance with that certain proposed *Order Governing Confidential Information by and Between the Official Committee of Talc Claimants and the Debtor Pursuant to D.N.J. LBR 9021-1(b)* [Docket No. 545] (the "**Protective Order**"). So as not to delay the filing of the TCC's Proposed FoFs/CoLs, the Committee is, at this time, abiding by the Debtors' confidentiality designations and does not wish to be in contempt of the Protective Order. However, all of the Committee's rights to challenge the Debtor's designations regarding the Purported Confidential Information, including, but not necessarily limited to, those rights under the terms of the Proposed Protective Order, are hereby being expressly preserved.

2. For the reasons set forth herein, the Committee respectfully requests that the Motion to Seal be granted.

JURISDICTION

3. This Court has jurisdiction to consider this Motion to Seal and the Reply Supporting the Motion to Dismiss pursuant to 28 U.S.C. §§ 157 and 1334. The subject matter of this Motion to Seal and the Reply Supporting the Motion to Dismiss is a core proceeding pursuant to 28 U.S.C. § 157(b). Venue is proper in this district pursuant to 28 U.S.C. § 1408. The statutory predicates for the relief sought herein include 11 U.S.C. § 107(b), Fed. R. Bankr. P. 9018 and D.N.J. LBR 9018-1.

BACKGROUND

4. The Debtor commenced the Chapter 11 case on April 4, 2023 (the “**Petition Date**”).

No trustee has been appointed in the case, and the Debtor continues to operate as debtor-in-possession pursuant to Bankruptcy Code Sections 1107(a) and 1108.

5. The Committee was appointed on April 14, 2023 [Docket No. 162].

6. On April 24, 2023, the Committee filed a motion to dismiss the Debtor’s second bankruptcy filing for cause [Docket No. 286] (the “**TCC Motion to Dismiss**”). Ten additional parties, including the Office of the United States Trustee [Docket No. 379] and Ad Hoc Committee of States [Docket No. 352], have also filed motions to dismiss this Chapter 11 case for cause (collectively, with the TCC Motion to Dismiss, the “**Motions to Dismiss**”).³

7. The TCC Motion to Dismiss sets forth relevant preliminary and background matters which are incorporated herein by reference.

8. A trial on the Motions to Dismiss was held from June 27 thru June 30, 2023.

9. The TCC’s Proposed FoFs/CoLs are submitted pursuant to the direction of the Court to the parties at the conclusion of the trial on the Motions to Dismiss. The Court also stated that a decision with respect to the Motions to Dismiss should be ready by August 2, 2023.

10. An Application for Order Shortening Time shall be filed with respect to this Motion to Seal in case any of the redacted portions of the TCC’s Proposed FoFs/CoLs may be incorporated into the Court’s decision with respect to the Motions to Dismiss.

³ Additional filings in support of dismissal include Docket Nos. 335, 346, 352, 358, 384, 473, 480, and Adv. Pro. No. 23-01092, Docket Nos. 117, 118.

APPLICABLE LAW

11. Bankruptcy Code Section 107 provides, in relevant part, the following: “On request of a party in interest, the bankruptcy court shall, and on the bankruptcy court's own motion, the bankruptcy court may ... protect an entity with respect to a trade secret or confidential research, development, or commercial information....” *See* 11 U.S.C. § 107(b)(1); *see also* Fed. R. Bankr. P. 9018 (“On motion or on its own initiative, with or without notice, the court may make any order which justice requires ... to protect the estate or any entity in respect of a trade secret or other confidential research, development, or commercial information....”).

12. Under Section 107(b)(1), “if the information fits any of the specified categories, the court is required to protect a requesting interested party and has no discretion to deny the application.” *In re Orion Pictures Corp.*, 21 F.3d 24, 27 (2d Cir. 1994). The party seeking the sealing of part of the judicial record ““bears the burden of showing that the material is the kind of information that courts will protect.”” *In re Cendant Corp.*, 260 F.3d 183, 194 (3d Cir. 2001) (citation omitted). In the context of Section 107(b)(1), “commercial information” has been defined as information which would cause ““an unfair advantage to competitors by providing them information as to the commercial operations of the debtor.”” *Orion Pictures*, 21 F.3d at 27 (citation omitted).

13. As previously stated, the Purported Confidential Information included in the appendix of exhibits and exhibits, redacted from the TCC’s Proposed FoFs/CoLs includes certain information designated by the Debtor as being confidential in accordance with the Protective Order Protective Order. So as not to delay the filing of the TCC’s Proposed FoFs/CoLs, the Committee is, at this time, abiding by the Debtors’ confidentiality designations and does not wish to be in contempt of the Protective Order. However, all of the Committee’s rights to challenge the Debtor’s

designations regarding the Purported Confidential Information, including, but not necessarily limited to, those rights under the terms of the Protective Order, are hereby being expressly preserved.

14. Therefore, the Committee's Motion to Seal should be granted.

NO PRIOR REQUESTS

15. No prior request for the relief sought in this Motion to Seal has been made to this Court or any other court with respect to the specific Purported Confidential Information redacted from the TCC's Proposed FoFs/CoLs. On April 24, 2023, in connection with the TCC Motion to Dismiss, the Committee filed a *Motion to Seal the Redacted Portions of the Motion of the Official Committee of Talc Claimants to Dismiss Second Bankruptcy Petition of LTL Management, LLC* [Docket No. 287]. That motion to seal was granted on May 22, 2023 [Docket No. 564]. On June 22, 2023, in connection with the TCC's Reply in support of the Motion to Dismiss, the Committee filed a *Motion to Seal the Reply in Support of Motion of the Official Committee of Talc Claimants to Dismiss Second Bankruptcy Petition of LTL Management, LLC* [Docket No. 858]. That motion to seal is still pending as of the date hereof. While the bases for those motion to seal were substantially the same as this Motion to Seal, the specific confidential information that were the subjects of those motions to seal may or may not necessarily be the same as the specific Purported Confidential Information redacted from the TCC's Proposed FoFs/CoLs.

16. The Committee, the Debtor and other parties have filed other motions to seal in this Chapter 11 case, as well as in the related adversary proceeding, Adv. Proc. No. 23-01092 (MBK); however, none of those motions to seal have concerned the Purported Confidential Information that is the subject of this Motion to Seal.

RESERVATION OF RIGHTS

17. The Committee reserves all of its rights, claims, defenses, and remedies, including, without limitation, the right to seek the public disclosure of the materials under seal or currently subject to redaction.

CONCLUSION

WHEREFORE, the Committee respectfully requests that this Court (i) grant the Motion to Seal, (ii) enter the form of order substantially in the form submitted herewith, and (iii) grant such other and further relief as it deems necessary, appropriate and consistent with the goals of the Motion to Seal.

Dated: July 19, 2023

GENOVA BURNS LLC

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